

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA**  
**Civil Division**

DISTRICT OF COLUMBIA  
Department of Insurance, Securities  
and Banking,

Petitioner,

v.

D.C. CHARTERED HEALTH PLAN, INC.,

Respondent.

Civil Action No.: 2012 CA 008227 2  
Judge: Judith Bartnoff  
Calendar No.: 15  
Next Scheduled Event: Status Hearing  
December 15, 2016, at 10:00 a.m.

**PRAECIPE**

**NOTICE OF FILING OF SPECIAL DEPUTY TO THE  
REHABILITATOR'S NINETEENTH STATUS REPORT**

D.C. Chartered Health Plan, Inc., acting through its Rehabilitator and his attorneys, files  
the attached Special Deputy to the Rehabilitator's Nineteenth Status Report.

Dated: December 12, 2016

Respectfully submitted,

By: /s/ Richard E. Hagerty

Richard E. Hagerty

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Special Deputy to the Rehabilitator for  
D.C. Chartered Health Plan, Inc.

**Certificate of Service**

I hereby certify that on December 12, 2016, a copy of the foregoing *Notice of Filing of Special Deputy to the Rehabilitator's Nineteenth Status Report* was filed and served by email upon:

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/s/ Richard E. Hagerty  
Richard E. Hagerty

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**SPECIAL DEPUTY TO THE REHABILITATOR'S NINETEENTH STATUS REPORT**

Daniel L. Watkins, as Special Deputy to the Rehabilitator of D.C. Chartered Health Plan, Inc. (in Rehabilitation) ("Chartered"), files this *Nineteenth Status Report*.

1. **Update From Eighteenth Status Report.** On July 12, 2016, the Special Deputy filed his Eighteenth Status Report with the Court. The following information provides an update to that Report.

**(a) Parent Company and Related Party Issues.**

- (i) **Thompson Action.** As previously reported, including in the Eighteenth Status Report, Chartered is involved in litigation with its sole shareholder District of Columbia Heath Systems, Inc. (DCHSI) and DCHSI's owner, Jeff Thompson (the "Thompson Action," D.C. Super. Ct. Civil Case No. 2013 CA 003752 B).

On April 6, 2016, the parties participated in a Court ordered mediation. The parties agreed to reconvene mediation on June 8, 2016 but that meeting was postponed to August 31, 2016. Because of the federal lawsuit filed by DCHSI on August 12, 2016 and described in paragraph 4 below, Chartered

informed the Multi-Door Dispute Resolution Division that mediation was no longer a productive option. Mediation was, therefore, canceled, and the Multi-Door Division set this matter for a pre-trial conference before Judge Rankin on October 26, 2016 at 9:30 a.m. Judge Rankin subsequently canceled the pre-trial conference due to a separately scheduled November 4, 2016 hearing on Chartered's request for attorneys' fees pursuant to Judge Mott's Order of April 28, 2016, granting Chartered's Motion for Sanctions against Thompson because of his failure to appear for a deposition. At the November 4 hearing, Judge Rankin ordered Thompson to pay \$63,750 of the requested amount of \$68,470 in sanctions.

Subsequent to the November 4 hearing, counsel for the parties collaborated on the filing of a [Proposed] Amended Scheduling Order that will, if granted, reopen discovery and permit the completion of discovery by June 16, 2017. This [Proposed] Amended Scheduling Order is pending consideration by Judge Rankin.

Thompson and DCHSI changed lawyers again, with Womble Carlyle withdrawing and replaced by lawyers from Harris Wiltshire & Grannis. These are the same lawyers who have filed the new federal lawsuit on behalf of DCHSI, described in paragraph 4 below. Lisa Bell continues to serve as co-counsel for Thompson and DCHSI and was the only attorney appearing for Thompson at the November 4 hearing.

Mr. Thompson reported for incarceration to the federal Bureau of Prisons facility located in Ashland, Kentucky earlier this fall. On information and

belief, Mr. Thompson is not scheduled to be released until December 21, 2016. The discovery schedule agreed to by the parties and proposed to Judge Rankin was designed in part to recognize the fact that Mr. Thompson will be unavailable for a deposition until after December 21, 2016.

(ii) DCHSI Federal Lawsuit. See paragraph 4 below.

(iii) DCHSI Motion to Intervene. See paragraph 5 below.

(b) **Tax Matters.** As previously reported, in light of DCHSI's failure to file consolidated tax returns on Chartered's behalf, the Rehabilitator filed with the IRS tax returns for Chartered for tax years 2011-2015. Chartered's return for the tax year ending April 30, 2016 was filed in late July 2016. The Rehabilitator requested the IRS again to assert its regulatory authority and discretion to "break agency" between Chartered and DCHSI for the tax year 2016 so the IRS can continue to deal with Chartered as a separate entity for purposes of direct communications, rather than continuing to consider DCHSI as the "sole agent" for consolidated tax return group communications. As noted in the last Status Report, the IRS previously broke agency for the years 2011-2015, but tax returns for 2016 required a new determination under IRS regulations. The IRS recently notified Chartered and DCHSI that it was breaking agency for the 2016 tax year to deal directly with Chartered on its return. To date, the IRS has not granted permission for the DCHSI consolidated tax return group to de-consolidate for tax return filing requirement purposes. The IRS also has now accepted Chartered's Requests for Prompt Assessment for tax years 2011-2016, reducing the applicable statute of limitations for those years to eighteen months from the dates of filing each of those returns.

In July 2016, the IRS granted Chartered's request for abatement of certain penalties and interest previously assessed for its late-filed 2012 tax return on which no taxes have been paid. The IRS previously granted abatement of certain penalties and interest for tax year 2011. The IRS reductions granted for failure to file and other late penalties and interest totaled \$555,988.50. With most IRS penalty and interest amounts previously assessed for 2011 and 2012 now abated, Chartered has tax liabilities totaling approximately \$350,000 for tax years 2011-2012. (Chartered believes it should have no tax liability for the tax years 2013-2016.) Chartered's filings with the IRS have noted the priority order of asset distribution set by the Court in the Reorganization Plan. So, to date, no payment has been made to the IRS toward the tax obligations as there currently are not sufficient assets to pay 100% of Class 2 provider claims.

2. **Carrying Out the Plan of Reorganization and Payment of Chartered's Liabilities.**

(a) **Proofs of Claim Process.** The status of the proof of claim process remains unchanged since the last status report.

(b) **Provider Claims and Payments.** On July 11, 2016, a petition was filed for approval of payment for a fifth set of provider claim appeals and reconciliation of prior claim appeal payments. On August 2, 2016, an Order was entered by the Court authorizing payment of \$52,308.94 for the 83.88% pro rata share of the new claim appeals, as well as payment to correct a previous pro rata claim underpayment. Checks for the claim appeals were mailed on August 16, 2016 to the providers.

3. **Rehabilitation Expenses/Assets/Status.** Submissions for fees and expenses for work performed in this proceeding are pending the Court's review and approval. Chartered currently has cash assets of approximately \$6.4 million.

4. **Report on New Litigation Filed.**

(a) On August 12, 2016, DCHSI again filed litigation against the Rehabilitator, the prior Rehabilitator (William P. White) and the Special Deputy (the “Rehabilitation Defendants”), among others, this time in the federal court in the District of Columbia. A copy of the Complaint was attached as **Exhibit 1** to Chartered’s October 5, 2016 praecipe filed with the Court requesting an expedited hearing to discuss the matter.

As noted at the October 19<sup>th</sup> hearing before the Court, DCHSI is yet again challenging decisions made and actions taken on Chartered’s behalf by the Rehabilitation Defendants, individuals with statutory obligations acting under this Court’s supervision and with this Court’s approval. The suit is similar to prior suits and counterclaims, with a few exceptions, including that it purports to name Chartered as an “involuntary plaintiff,” and that Thompson is not a party.

(b) At the October 19<sup>th</sup> hearing, the Court found that it is appropriate for the defense of the Special Deputy in his individual capacity to be funded by the Chartered estate because he was acting as described in 18 prior status reports to the Court and his actions have been approved by the Court. A proposed order to that effect was submitted to the Court for review on October 24, 2016, and is pending review and approval by the Court. Since the October 19<sup>th</sup> hearing:

- Troutman Sanders has entered an appearance in the new federal action on behalf of the Special Deputy in his individual capacity for the limited purpose of seeking to dispose of the lawsuit as to claims filed against the Special Deputy in his individual capacity on a motion to dismiss or motion for summary judgment.

- The District of Columbia Office of the Attorney General, Public Interest Division, has entered an appearance in the new federal action on behalf of the Rehabilitator and the Special Deputy, as to claims brought against them in their official capacities.
- The parties in the new federal action have agreed on a briefing schedule pursuant to which initial responses to the complaint in that action (including motions to dismiss) were due by December 9, 2016, responses are due by January 20, 2017, and replies are due by February 3, 2017.
- Troutman Sanders filed a motion to dismiss on behalf of the Special Deputy in his individual capacity and the OAG filed a motion to dismiss on behalf of the Rehabilitator and Special Deputy in their official capacities.

**5. Motion to Intervene.**

On December 9, 2016, DCHSI filed a Motion to Intervene in the rehabilitation proceeding asserting that DCHSI has a protectable interest in the assets of Chartered and that interest is not adequately protected by the current parties. DCHSI is represented in the Motion by Douglas & Boykin PLLC. The Rehabilitator intends to file a timely response to this motion.

Respectfully submitted,

**/s/ Daniel L. Watkins**  
DANIEL L. WATKINS  
Special Deputy to the Rehabilitator of  
D.C. Chartered Health Plan, Inc.